

Message Text

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PAGE 01 PANAMA 00074 071706Z

42

ACTION ARA-10

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P R 071621Z JAN 75

FM AMEMBASSY PANAMA

TO SECSTATE WASHDC PRIORITY 2697

INFO AMEMBASSY TEGUCIGALPA

AMEMBASSY BOGOTA

AMEMBASSY GUATEMALA

AMEMBASSY MANAGUA

AMEMBASSY QUITO

AMEMBASSY SAN JOSE

PANCANAL

USSOUTHCOM

C O N F I D E N T I A L PANAMA 0074

EO 11652: GDS

TAGS: ETRD, PN

SUBJ: BANANAS - BACK TAX CLAIM AGAINST UB REMAINS UNSETTLED

REF: A. PANAMA 7299 NOTAL, B. PANAMA 7397 NOTAL

SUMMARY. UNITED BRANDS REPRESENTATIVES CALLED AT EMBASSY TO GIVE ADDITIONAL DETAILS CONCERNING AGREEMENT WITH GOP ON SALE OF COMPANY ASSETS AND TO REQUEST EMBASSY'S ASSISTANCE WITH REGARD TO REAMINING \$8 MILLION CLAIM FOR BACK TAXES GOING BACK TO 1957. END SUMMARY.

1. FOLLOWING CEREMONIES AT TREASURY MINISTRY JANUARY 6 MARKING \$5 MILLION EXPORT TAX PAYMENT BY UNITED BRANDS, UB VICE PRESIDENT LOPEZ-BALBOA AND COMPANY'S LOCAL LAWYER, LIC. AIZPURUA, CALLED ON CHARGE AT EMBASSY. LOPEZ STATED THAT UB SUCCEEDED IN GETTING CONFIDENTIAL

CONFIDENTIAL

PAGE 02 PANAMA 00074 071706Z

NEWLY AGREED 35 CTS. A BOX EXPORT TAX RATE RETROACTIVE ONLY FOR

60 DAYS PRIOR TO DECEMBER AGREEMENT, THE NORMAL PERIOD PERMITTED FOR PAYMENT OF TAX ON EACH SHIPMENT. THUS NEW RATE IN EFFECT ONLY FOR SHIPMENTS FROM OCTOBER 21, 1974. PAYMENT JUST MADE WAS TOTAL OWED FOR SHIPMENTS PREVIOUS TO THAT DATE AT \$1.00 A BOX (EXCEPT FOR ANY LATE PAYMENT PENALTIES, WHICH UB HOPES WILL BE EXCUSED). LOPEZ CONFIRMED OTHER DETAILS OF AGREEMENT AS ANNOUNCED IN LOCAL PRESS--SALE PRICE TO BE NEGOTIATED AND CONTRACT SIGNED BY APRIL 15, 1975, TRANSFER OF ASSETS TO BE COMPLETED BY END OF 1977-- AND SAID HE WAS DEPARTING JANUARY 7 ON A TOUR OF COMPANY-OWNED LANDS WITH AGRICULTURAL VICE MINISTER GUSTAVO GONZALEZ.

2. LOCAL PRESS JANUARY 5 CARRIED STORY MOSTLY REHASHING DETAILS OF UB-GOP AGREEMENT ANNOUNCED EARLIER BUT WITH ADDED STATEMENT THAT UB WOULD PROBABLY NOT RECEIVED CASH SETTLEMENT BUT RATHER A FAVORABLE SHIPPING AND MARKETING ARRANGEMENT. LOPEZ TOLD US THERE WAS NOTHING IN AGREEMENT TO BACK CONTENTION THERE WOULD BE NO CASH PAYMENT. UB WAS CONFIDENT IN ANY CASE OF GETTING ON-GOING SHIPPING AND MARKETING ARRANGEMENT, AS IT HAD THE EXPERIENCE AND KNEW THE MARKET BEST. LOPEZ SAID GOP OFFICIALS TOLD HIM RIVAL BANANA COMPANIES WERE NOT INTERESTED IN TAKING OVER FROM UB. HE SAID GOP CONTINUED TO EXPLORE MARKET POSSIBILITIES IN THIRD WORLD ON ITS OWN, BUT HE DISCOUNTED LIKELIHOOD OF SUCCESS AS WOULD-BE CUSTOMERS SUCH AS ALGERIANS AND COMMUNIST CHINESE NOT READY TO PAY DECENT PRICE. HE SAID GOP HAD ENTERED INTO AGREEMENT WITH YUGOSLAVIA TO SUPPLY 500,000 BOXES OVER A YEAR'S PERIOD, BUT WAS UNABLE TO FULFILL CONTRACT. UB AGREED TO TAKE OVER CHARTER OF SHIP CONTRACTED BY GOP FOR SHIPMENT AND REQUESTED THAT GOP CONSULT IT AHEAD OF TIME REGARDING SUCH DEALS IN FUTURE FOR PROTECTION OF ALL PARTIES.

3. LOPEZ REPORTED THAT WHILE COMPANY HAD BROUGHT UP QUESTION OF TAX OFFICE'S NEW CLAIM OF ABOUT \$8 MILLION FOR 2 CENTS PER STEM "TAX ON EARNINGS" SINCE 1957, MATTER REMAINS UNSETTLED. LOPEZ SAID UB CONSIDERS THERE ARE ABSOLUTELY NO LEGAL GROUNDS FOR CLAIM, BUT FEARS IF QUESTION HAS TO BE TAKEN TO COURT JUDGMENT WOULD BE RENDERED MORE OR LESS AUTOMATICALLY AGAINST COMPANY. IN VIEW OF 1) LENGTHS TO WHICH UB HAS GONE TO MAKE AN AMICABLE SETTLEMENT WITH GOP ON SALE OF LOCAL ASSETS; 2) FACT THAT UB HAS ALWAYS PAID WITHOUT QUESTION TAXES LEGALLY ASSESSED AND THAT GOP FOR PAST 17 YEARS HAS GIVEN NO HINT OF AN

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PAGE 03 PANAMA 00074 071706Z

INTERPRETATION OF UB'S TAX LIABILITY DIFFERENT FROM THAT THE COMPANY WAS FOLLOWING AND 3) DAMAGE WHICH COULD ACCRUE TO BUSINESS AND INVESTMENT CONFIDENCE IN COUNTRY IF GOP SUCCESSFUL IN REINTERPRETING TAX LIABILITY RETROACTIVELY BY 17 YEARS, UB BELIEVES THAT IT WOULD BE IN GOP'S BEST INTEREST FOR IT TO DROP THIS TAX CLAIM WITHOUT FORCING UB TO GO TO COURT. LOPEZ ASKED IF EMBASSY COULD ASSIST BY BROACHING SUBJECT INFORMALLY ALONG THESE LINES TO GOP AT HIGH LEVEL. HE PROMISED PROVIDE EMBASSY WITH

BRIEF ON UB'S INTERPRETATION OF TAX QUESTION. CHARGE AGREED TO
AWAIT RECEIPT OF UB BRIEF WITHOUT COMMITMENT TO MAKE SUGGESTED
APPROACH TO GOP.
GONZALEZ

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